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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/577,449	05/24/2000	Scott C. Harris	Biometrics	4716
23844	7590	11/04/2008		
SCOTT C HARRIS P O BOX 927649 SAN DIEGO, CA 92192			EXAMINER SHIN, KYUNG H	
			ART UNIT 2443	PAPER NUMBER
			MAIL DATE 11/04/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

09/577,449

**Applicant(s)**

HARRIS, SCOTT C.

**Examiner**

Kyung Hye Shin

**Art Unit**

2443

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 26-50.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Tonia LM Dollinger/  
Supervisory Patent Examiner, Art Unit 2143

Continuation of 11, does NOT place the application in condition for allowance because: Response to Remarks

Applicant has stated that the user "must know a value". This phrase is not part of the claimed invention. There is no disclosure for the phrase "value known to the user" in the specification or the original claims.

Bjorn discloses forming the key from the biometric information. Freedman, in the field of biometric identification and security, discloses the identification of a portion of a body (biometric) part. Bjorn and Freedman disclose the formation of a key using a biometric part or a portion of a body (biometric) part. In addition, Freedman discloses a parameter entry system for the input of a parameter associated with a body part. Applicant's claimed invention discloses the input of a value to identify a body part. Freedman discloses this function.

Freedman discloses that a selection of the biometric information is made. The biometric information can be fingerprint, retinal scan, and voice prints. Freedman discloses the usage of fingerprints from multiple fingers in addition to biometric information from other human body parts such as retinal scans and voice prints. (Freedman col 11, ll 44-65: biometric information provided by individual is related to parameters selected; selects left ring finger, right thumb, and right index finger; biometric input means used to collect biometric information which are entered in a predetermined order; (biometric information input by user); col 9, ll 53-55: fingerprints, palm prints, voice samples, retinal scans)

Claims 32, 40 in the claimed invention disclose the usage of relative parameters as opposed to absolute dimensions. The specification did not disclose the term "ratio" but did disclose the concept of relative instead of absolute dimensions. The original claims disclosed the term "ratios" (for relative dimensions) in the usage of parameters. Takhar discloses the usage of ratio parameters which are relative measurements. The cited sections in Takhar disclose ridge to valley ratios (or relative parameter operations) in the analysis of a biometric fingerprint. (Takhar col 26, ll 15-14: self regulating technique for normalizing ridge to valley ratios; col 26, ll 18-19: cross section of scan produces the most even spacing of ridge to valley ratios).